

MEMORANDUM

Date: December 3, 2004

To: Jim Bagley, Lee Rolfs

From: Tom Huntzinger

CC:

Subject: proposed water bank

Terry Nelson gave me a copy of a proposed water bank for his area. He prepared the attached document with assistance from the other listed members of the Charter Committee. They had the law but not the regulations to work from. I gave him a copy of the regulations. It was his expectation that the attached document that he submitted to me was sufficient. He now understands the requirements for a petition and signatures. The charter members are ready to proceed so this is a heads up. As you will note, this is linked to the Almena Irrigation project and the sale or lease of reservoir water to Wildlife and Parks. Seems there is some opportunity for a good concept to manage around land dry up; but also some concerns about offsets of ground water for surface water. We will see.

If there are concerns or initial problems that should be shared with Terry at the outset, please let me know.

Barfield
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PRAIRIE DOG BASIN WATER BANK CHARTER ESTABLISHED Jan 1, 2005

The location of the Prairie Dog Water Bank will be located the same office and building as the Almena Irrigation District office Box 275 Almena, Kansas, 67622. Phone 785-669-2390

The hydrologic areas will be the prairie dog alluvium in Norton and Phillips County Kansas that are located below the Keith Sebelious Reservoir, Almena irrigation district and the surface waters of the prairie dog in Norton and Phillips County and their respective water rights.

The board of directors will include five individuals or agents with water rights that owned and deposited within the bank. Each individual will serve five year terms with one board member elected each year. If a position becomes vacant the position will have a temporary appointment by the Chairman of the board until the position is filled at the next annual election. .

Their will be an annual meeting each year as determined by the board.

Whereas the needs of recreation, irrigators, municipal concerns, water right issues between states have evolved through the decades from inception of water right laws in 1945 we find it necessary to conserve and find flexibility to better serve all needs and not compromise the legal rights of any water user. The bank will use less water over a period of seven years with a goal of 10% reduction of overall less usage of totally quantity of water.

1. ELIGIBLE VOTERS

- A. Each water right in good standing as determined by DWR and currently deposited within the bank will have one available vote.
- B. The "current account" owner will have the water right vote for the year.
- C. At least 10% of eligible voters constitute a quorum for a valid annual meeting.
- D. Proxy votes are allowed with signed and notarized authorization.

2. DEPOSIT FEES

- A. The board of directors will determine the fees.
- B. The initial fee will be 50 cents per acre feet of water right initially deposited into the bank for administration and clerical fees.

3. CHARTER COMMITTEE

- A. Craig Ingram, 220 W 1100, Long Island, Kansas
- B. Duane Sell, 1476 W. Granite Road, Long Island, Kansas 67647
- C. Steve Cox, 1472 Hwy 383, Long Island, Kansas
- D. Kevin Tubbs, RR1 Box 7B Almena, Kansas 67622
- E. Terry Nelson 1271 W. Fox Run , Long Island, Kansas

4. BOARD DUTIES

- A. Bank may hire officers or clerical help as necessary.
- B. Board will select officers immediately after every annual meeting.
- C. Board will delegate bank responsibilities as necessary and documented in minutes of their meetings.
- D. Board will determine frequency of their meetings with no less than two per year.
- E. Board will be responsible for the fiscal soundness of the bank.
- F. Board will be elected once charter is approved.

3. DEPOSIT OF WATER RIGHTS

- A. The account number will be the water right number
- B. Deposits will be Acre-Feet of water expressed to the nearest tenth
- C. Each water right has two accounts
 - 1. CURRENT ACCOUNT
 - a. water right is valid for the current year and has fees paid to bank
 - b. Must have a current account to have a "safe deposit account" transfer for the current year.
 - c. Time period will be the calendar year.
 - d. Fees must be paid by March 1 of current year to be eligible.
 - e. The owner of the current account will be the individual authorized by the water right owner to divert water for beneficial use.
 - f. The current owner of the account can transfer any unused portion of the water right to its own "Safe Deposit" account within the bank.
 - g. A current account can receive a transfer from any "safe deposit account"
 - h. Depositing in a current account will be sufficient reason for non-use according to DWR and will not constitute forfeiture of water right after five years of non-use.

2. SAFE DEPOSIT ACCOUNT

- a. Any unused portion of the "Current Account" can be deposited into this account.
- b. At any time during the year, an automatic reduction of 10% will occur with any water that is deposited in the account.
- c. Any safe deposit account more than a year old will automatically be reduced 10% at the end of every year.
- d. Only the previous five years of deposits are allowed in this account.
- e. Transfers from one "Safe deposit account" to another are allowed.

5. WATER METER REPORTING

- A. Water meters readings will be required by December 31 of each calendar year.
- B. Water bank will report to DWR by February 10 on previous years transactions.
- C. Depositors will be sent and report of previous years transactions and will constitute legal notice of water right use to DWR of all current accounts for the previous year by February 1 following current year.

6. LEASING OF RIGHTS

- A. Water can be sold, leased or traded out of a "safe deposit account" to an owner of a "current account" or a "safe deposit account"
- B. Bank may facilitate the negotiations
- C. Bank or a designated representative must approve and account for the transaction.

7. ADMINISTRATION OF WATER RIGHTS

- A. Bank board will try to be a mediator with grievances between water users.
- B. If mediation fails, both "Current accounts" of disputed water rights will be closed for the current year and DWR will be relied upon to administrate in traditional ways.
- C. Administration fees will not be refunded.
- D. No "safe deposits" will be allowed out of closed "current accounts"

8. WATER CONSERVATION CALCULATIONS

- A. Surface water and ground water will be used in combination to calculate total water conservation
- B. Water usage during 1993 through 2003 will be the permanent baseline for water consumption calculations. ✓
- C. All water rights within bank boundaries will be used for the total conservation calculation according to the Compact agreement on water use.] 7 ?
- D. After the fourth year, Bank board will evaluate and put in place a strategy to achieve 10% water savings if necessary.
 - 1. Consider possible options for surface right holders.
 - 2. Lower lake to reduce evaporation, curtail irrigation deliveries
 - 3. Notify water right holders of possible modifications of future use.

9. SURFACE WATER RIGHTS

- A. District surface water rights can also be included in the design and policies of the water bank.
- B. Surface water and ground water accounts can be commingled.
- C. Surface water is extremely sensitive to supply.
- D. If any dispute arises that cannot be mediated by the bank board, it is highly likely that all surface right users would loose "current account" status and DWR would be asked to administrate the water in traditional ways.

10. BANK CANNOT

- A. Change points of diversion (^{not} permanent)
- B. Restrict type of use
- C. Change or have any affect on the original water rights now or in the future.
- D. Sell, approve or transfer any water rights

11. BANK FAILURE

- A. No more current accounts will be accepted
- B. Board will administer "safe deposit accounts"
- C. All safe deposit accounts will sunset within five years and board can dissolve.
- D. All excess funds are returned proportionally to safety deposit owners

12. Bank Can

- A. Can approve a temporary change place of use with DWR's blessing as long as bank is chartered and operational . A fee will be established to pay for DWR's costs of administration.